

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

Writ Petition No.21039 of 2001

09.08.2007

Between

M/s.Inani Securities Limited and others.

...Petitioners

And

The Municipal Corporation of Hyderabad rep.by its
Commissioner, Tank Bund, Hyderabad and another.

...Respondents

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

Writ Petition No.21039 of 2001

ORDER:

This writ petition is filed by the petitioners, who are stated to be stockbrokers, for declaring the action of the first respondent-Corporation in directing them to obtain licenses under Section 521 of Hyderabad Municipal Corporations Act, 1955 (for short 'the HMC Act') as arbitrary, illegal and *ultra vires* of the powers of the Corporation and consequently for a direction to the respondents not to interfere with the business of the petitioners and not to insist to obtain licenses.

It is stated that the petitioners are possessing licenses as stockbrokers issued by the Securities Exchange Board of India under SEBI Act to deal with or

trade in the sale and purchase of shares of various companies in the stock market through different stock exchanges, such as Hyderabad Stock Exchange and National Stock Exchange. It is, therefore, contended that the first respondent-Corporation is not entitled to insist the petitioners to obtain licenses from it. It is also stated that earlier, the association of the petitioners filed W.P.No.15145 of 2001, which was dismissed as not maintainable observing that it was the individual grievance of the persons carrying on trade and not the grievance of the association. In the light of the said observation, the present writ petition is filed by the petitioners, who are carrying on business as stockbrokers, contending that since they have already obtained licenses from the SEBI under the provisions of the SEBI Act, the first respondent-Corporation has no right or jurisdiction to insist them to obtain licenses from it. Therefore, they sought appropriate orders.

A counter is filed on behalf of the first respondent-Corporation disputing and denying the allegations made by the petitioners. It is stated that the writ petition is liable to be dismissed since as a local authority, the first respondent-Corporation is implementing the provisions of the HMC Act. It is also stated that Section 521(1) read with Section 622(4) of the HMC Act contemplates that

except under and in conformity with the terms and conditions of a licence granted by the Commissioner, no person shall keep, in or upon any premises, for any purpose whatever, and Clause (f) of Section 521(1) of the HMC Act prohibits carrying on or use of any premises for any trade. Further, sub-section (4) of Section 622 of the HMC Act empowers the Corporation to order discontinuance of business, if any business is carried on without obtaining a licence from the Corporation. Therefore, it is contended that since the petitioners did not obtain any licence from it, the Corporation issued a notice to the petitioners to obtain a licence from it for which there cannot be any grievance.

At the time of hearing, the learned counsel for the petitioners contended that since the petitioners have already registered under the SEBI Act for carrying on business as stockbrokers for purchase and sale of stocks of listed companies in any stock exchanges, there is no need to obtain a licence as is contemplated under Section 521 of the HMC Act. The learned counsel also relied upon a judgment of the Apex Court in **A.P.Bankers and Pawn Brokers Association v Municipal Corporation of Hyderabad**^[1], wherein the action of the Corporation insisting upon the brokers and moneylenders to obtain licenses from the Corporation was assailed before this

Court and this Court upheld the action of the Corporation. However, the Apex Court reversed the said view of this Court observing that no terms and conditions can be imposed for carrying on the said trade and no material was placed to show that money lending and pawn broking can be considered to be dangerous to property or likely to create nuisance. In fact, the contention of the moneylenders and the pawnbrokers was considered in terms of provisions of Section 521(1) of the Act with which we are not concerned.

In the present case, admittedly, the petitioners, who are claimed to be carrying on business as stockbrokers for purchase and sale of stocks of listed companies, are carrying on their business in different premises without obtaining any trade licence. Section 521(1)(f) of the HMC Act makes it clear that no person shall carry on within the city or use any premises for the trade or operation of a carrier. This clearly shows that in order to carry on business in any trade, a person is required to obtain a trade licence. The said provision read with Section 622(4) of the HMC Act makes it clear that the Commissioner of the Corporation is empowered to order discontinuance of the business if any trade is being carried on without obtaining a licence as is contemplated under Section 521 of the HMC Act. Therefore, the learned counsel for the

first respondent-Corporation contended that the judgment relied upon by the learned counsel for the petitioners has no application to the present case and the petitioners have to obtain a licence from the Corporation in order to carry on their trade of purchase and sale of stocks of the listed companies from any of the stock exchanges.

The learned counsel for the petitioners is not able to show any provision or any decision, which contemplates that the petitioners can carry on business without obtaining a trade licence as contemplated under the provisions of the HMC Act.

Under the above circumstances, the contentions of the learned counsel for the petitioners are devoid of merit and the writ petition is accordingly dismissed. No costs.

09.08.2007

VGB

[\[1\]](#) AIR 2001 SC 1356